

NOTICES OF EXEMPT RULEMAKING

The Administrative Procedure Act requires the *Register* publication of the rules adopted by the state's agencies under an exemption from all or part of the Administrative Procedure Act. Some of these rules are exempted by A.R.S. §§ 41-1005 or 41-1057; other rules are exempted by other statutes; rules of the Corporation Commission are exempt from Attorney General review pursuant to a court decision as determined by the Corporation Commission.

NOTICE OF EXEMPT RULEMAKING

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

PREAMBLE

1. **Sections Affected**

R19-2-401	<u>Rulemaking Action</u>
R19-2-403	Amend
R19-2-521	Amend
R19-2-522	Amend
2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: § 41-1005(A)(18)
Implementing statute: § 5-111(A)
3. **The effective date of the rules:**

January 29, 1999
4. **A list of all previous notices appearing in the Register addressing the exempt rule:**

Notice of Rulemaking Docket Opening: 4 A.A.R. 3997, November 27, 1998.
5. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Dasha Marush
Address: Arizona Department of Racing
3877 North 7th Street, Suite 201
Phoenix, Arizona 85014
Telephone: (602) 277-1704
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6. **An explanation of the rule, including the agency's reasons for initiating the rule, including the statutory citation to the exemption from the regular rulemaking procedures:**

A.R.S. § 41-1005(A)(18) provides the Arizona Racing Commission the statutory exemption to the regular rulemaking process for rules adopted under A.R.S. § 5-111(A) and A.R.S. § 5-112(B). The Commission is authorized to establish pari-mutuel wagering and simulcast rules under A.R.S. § 5-111(A) and § 5-112(B). These amendments will allow racetrack permittees to continue to accept wagers on simulcast races in the absence of a video signal for the remainder of the race day.
7. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

None.
8. **The summary of the economic, small business, and consumer impact:**

None.
9. **A description of the changes between the proposed rules, including supplemental notices, and final rules (if applicable):**

None.
10. **A summary of the principal comments and the agency response to them:**

None.
11. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None.
12. **Incorporations by reference and their location in the rules:**

None.

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13. Was this rule previously adopted as an emergency rule?
No.

14. The full text of the rules follows:

TITLE 19. ALCOHOL, HORSE AND DOG RACING, LOTTERY, AND GAMING

CHAPTER 2. ARIZONA RACING COMMISSION

ARTICLE 4. TELETRACKING

Section

R19-2-401. Definitions

R19-2-403. General Provisions

ARTICLE 5. PARI-MUTUEL WAGERING

R19-2-521. Simulcast Wagering

R19-2-522. Interstate Common Pool Wagering

ARTICLE 4. TELETRACKING

R19-2-401. Definitions

For purposes of this Article, in addition to the definitions set forth in R19-2-102 and R19-2-302, and unless the context otherwise requires:

1. "Teletrack Wagering Permit" means a permit issued by the Commission authorizing an Arizona racetrack permittee a sending track to telecast a racing program to single or multiple teletrack wagering facilities within the State of Arizona for the purpose of pari-mutuel wagering.
2. "Teletrack Facility" means an additional wagering facility owned or leased by an Arizona permittee which is used for handling legal wagers.
3. "Satellite" means the receiving and retransmission space station which is in orbit with the earth.
4. "Sending Track" means the enclosure where a racing program of authorized live racing is conducted from which teletracking originates.
5. "Teletracking" means the telecast of live audio and visual signals symbols of live or simulcast horse, mule or greyhound racing programs conducted at an authorized enclosure within Arizona to an authorized additional wagering facility within Arizona, by a racetrack permittee for the purpose of pari-mutuel wagering.
6. "Teletrack Wagering" means pari-mutuel wagering conducted at a teletrack facility within Arizona on a racing program which is conducted at an authorized track within Arizona.
7. "Transmission" means the point-to-point sending and receiving of an audio/visual signal by any method approved by the Arizona Department of Racing.
8. "Operating Hours" means the hours in which pari-mutuel windows are open at a teletrack facility.
9. "Sales Transaction Data" means the electronic signals transmitted between totalisator ticket-issuing machines and the totalisator central processing unit for the purpose of accepting wagers and generating, canceling and cashing pari-mutuel tickets; also, the financial information resulting from processing sales transaction data, such as handle and revenues.
10. "Pari-Mutuel Output Data" means any data provided by the totalisator system other than sales transaction data including, but not limited to, odds, will pays, race results and pay-off prices.
11. "Racing Program" means the live races conducted at an authorized track, approved dark-day simulcasts and any

simulcast races shown to the public in conjunction with live racing on which pari-mutuel wagering is allowed.

12. "TIM-To-Tote Linkage" means the connection in which the Ticket Issuing Machines (TIM) are directly connected to the permittee's own calculating or compiling totalisator with no intermediate totalisator systems within that connection.
13. "Tote-To-Tote Linkage" means the connection between the totalisator systems in which 1 of the systems is not part of the permittee's calculating system and may or may not be used for the compilation of TIM-to-tote wagers within its own wagering network that are then forwarded to the permittee's calculating totalisator system.
14. "Video Breakdown" means any failure in the receipt of a video signal at a teletrack or racetrack facility including any failure to initially acquire a signal.
15. "Video Reception" means the display of wagering information and races as offered to the general public.

R19-2-403. General Provisions

The following rules shall apply to each teletrack facility:

1. At the Director's discretion, a Department representative may be present during all operating hours.
2. Suitable back-up or replacement tote equipment shall be available such that down time in the event of equipment failure shall be 60 minutes or less, during operating hours. At teletrack sites with multiple teller equipment installed, back-up equipment may consist of the remaining operating teller machines provided that the remaining machines are sufficient to handle the reasonably anticipated volume of sales transactions without unreasonable delays or inconvenience to patrons.
3. The permittee controlling the teletrack wagering permit is responsible during the racing program for reporting any problems or delays to the public.
4. Security requirements will be adequate to control disturbances.
5. Communications must allow the sending track and teletrack facility to communicate without delay. In a Tote-to-Tote situation, if the data transmission link between the tote systems fail, the permittee holding the teletrack permit shall decide the policy for paying off or refunding pari-mutuel tickets and all other communication failures at the teletrack site.
6. Photo finish pictures of the previous day's live races will be available for viewing upon request within 48 hours.
7. A video display monitor showing the following information must be in operation at each teletrack facility during all operating hours:
 - a. All wagering information including pool totals, will Will pays, or odds as offered to the general public as shown at the permittee racetrack location sending track;
 - b. Each race shown live, as it is run;
 - c. ~~b.~~ Race Results;
 - d. ~~c.~~ Prices or payoff;

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- e.d. Minutes to post:-
f. The corresponding race number and track for which the above information is displayed.
8. Notwithstanding paragraph 7, should a video breakdown occur in the video display of the race and wagering information in the will pay (odds), the permittee shall immediately contact the Director or his designee, and the following guidelines shall be met: Wagering may continue at the teletrack facility on the affected racing program for the remainder of that racing day provided the following conditions are met:
- a. The racetrack permittee shall notify the wagering public at the affected teletrack facility of the nature of the breakdown:-
a. If the video display is not restored within 60 minutes, the manager(s) at the facility(ies) shall inform the public that wagering will cease on the affected signal.
b. The racetrack permittee shall make immediate and continuing efforts to repair the video breakdown:-
b. To accommodate its patrons, wagers for the current race or for later races on the card may be taken for an additional 30 minutes.
c. The racetrack permittee shall provide the Director Department a written report concerning the circumstances within 48 hours 2 days of any such breakdown:-
d. The racetrack permittee shall not accept wagers at the teletrack facility on the affected racing program for any performance on a subsequent racing day until the breakdown has been repaired. The Director may, upon written request, authorize the racetrack permittee to accept wagers at a teletrack facility despite an ongoing video breakdown:-
e. If there is not a reasonable expectation of video reception, the racetrack permittee shall not accept wagers at the teletrack facility on the affected racing program. The Director may upon written request, authorize the racetrack permittee to accept wagers at a teletrack facility despite the lack of expectation of video reception.
9. Arizona pari-mutuel rules must be available in the wagering area.
10. Notice of any race cancellation, scratches, and other changes shall be posted conspicuously as soon as possible in the wagering area. In addition, it shall be the responsibility of the mutuel manager at the host permittee to disseminate all changes in wagering information to all teletrack wagering locations.
11. The results of each race, and the winnings therefrom, shall be posted as soon as possible at each teletrack facility and shall be available to the wagering public for 24 hours on the race day following the day of the race.
12. A permittee shall report to the Department any violation or suspected violation of law which occurs on or about the premises of the teletrack facility.
13. The permittee shall make daily handle and attendance reports for each teletrack facility as prescribed by the Department.
14. Betting Period:
a. Wagering may only be conducted during periods approved by the Director or Commission in respect to any race, racing card, pool or feature pool.
b. The Director may prescribe the closing time for pari-mutuel equipment at each facility based on the

level of sophistication of the pari-mutuel equipment and transmission equipment.

15. The method used to transmit sales transaction and pari-mutuel output data shall be approved in writing by the Director, based upon the Director's determination that provisions to secure the system and transmissions are satisfactory.
16. The permittee shall provide computer reports pertaining to pari-mutuel activity as required by the Director.

ARTICLE 5. PARI-MUTUEL WAGERING

R19-2-521. Simulcast Wagering

- A. The Department may authorize a racetrack permittee to conduct simulcasting as defined in A.R.S. § 5-101 pursuant to A.R.S. § 5-112 and the Interstate Horse Racing Act of 1978.
- B. A racetrack permittee shall submit a request for sending or receiving of simulcasts in writing to the Director of the Department.
- C. For approval of horse simulcasts, the Department requires the following:
1. A completed simulcast agreement between a racetrack permittee and out-of-state entity specifying which races will be simulcast to or from each specific track involved in the agreement.
2. Written approval of the out-of-state horsemen's group.
3. Written approval of the out-of-state racing commission.
4. Written approval of the local horsemen's group. For purposes of this section, horsemen's group is the group which represents the majority of the horsemen racing at or contracted with the racetrack permittee.
- D. For approval of greyhound simulcasts, the Department requires the following:
1. A completed simulcast agreement between a racetrack permittee and out-of-state entity.
2. Written approval of the out-of-state racing commission.
- E. Withdrawal of any of the written approvals required in subsections (C) and (D) shall at any time constitute grounds for the Department to rescind authorization for simulcasting.
- F. Additional Wagering Facilities.
1. A racetrack permittee may conduct simulcasting at the racetrack enclosure and at any additional wagering facility operated by the racetrack permittee providing that the additional wagering facility is included in the simulcast agreement.
2. A racetrack permittee may send its simulcast signal to an out-of-state racetrack enclosure and any additional wagering facilities operated or used by the out-of-state entity providing all locations receiving the simulcast signal are included in the simulcast agreement.
- G. Duties of Sending Racetrack Permittee
1. The sending racetrack permittee is responsible for content of the simulcast and shall use all reasonable effort to present a simulcast which offers the viewers an exemplary depiction of each performance.
2. Unless otherwise permitted by the Department, every simulcast will contain in its video content a digital signal of actual time of day, the name of the host facility from where it emanates, the number of the contest being displayed, and any other relevant information available to patrons at the sending facility.
3. The sending racetrack permittee shall maintain such security controls including encryption over its uplink and communications systems as directed or approved by the Department.
- H. Duties of Receiving Racetrack Permittee

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1. A receiving racetrack permittee conducting a live commercial racing meeting in this state may conduct and operate a pari-mutuel wagering system on the results of contests being held or conducted and simulcast from the enclosures of 1 or more sending racetrack permittees outside this state and with approval of the Department. Receiving racetrack permittee shall provide:
 - a. Adequate transmitting and receiving equipment of acceptable broadcast quality, which shall not interfere with the closed-circuit TV system of the sending racetrack permittee for providing any sending facility information.
 - b. Pari-mutuel terminals, pari-mutuel odds displays, modems, and switching units enabling pari-mutuel data transmissions, and data communications between the sending and receiving racetrack permittees.
 - c. A voice communication system between receiving racetrack permittee and the sending racetrack permittee providing timely voice contact among the Department designees, placing judges, and pari-mutuel departments.
 - d. A monthly copy of the simulcast schedule and any amendments to that schedule to the Department.
2. A receiving racetrack permittee shall conduct pari-mutuel wagering pursuant to the applicable Department rules.
 - 2.6. With the exception of the cases in subsection (D)(1) shown in (3) and (4), at all times the live video signal shall be shown to the wagering public.
 5. The Department may appoint at least 1 designee to supervise all approved simulcast facilities and may require all approved designees as is reasonably necessary for the protection of the public interest.
 - 5.1. A racetrack permittee that rebroadcasts a simulcast signal to any additional wagering facility shall offer the simulcast public at the additional facility the same live at the racetrack permittee location.
3. Acquisition and Subsequent Loss of Simulcast Video Signal During Separate Pool Wagering.
 1. Should a video breakdown occur in the display of the race and wagering information, the permittee shall immediately contact the Director or his designee. Wagering may continue at the permittee racetrack location on the affected racing program for the remainder of that racing day provided the following conditions are met:
 - a. The racetrack permittee shall notify the wagering public of the nature of the breakdown.
 - b. The racetrack permittee shall make immediate and continuing efforts to repair the video breakdown.
 - c. The racetrack permittee shall provide the Director a written report concerning the circumstances within 48 hours of any such breakdown.
 - d. The racetrack permittee shall not accept wagers at the racetrack enclosure on the affected racing program for any performance on a subsequent racing day until the breakdown has been repaired. The Director may, upon written request, authorize the racetrack permittee to accept wagers despite an ongoing video breakdown.
 - e. If there is not a reasonable expectation of video reception, the racetrack permittee shall not accept wagers on the affected racing program. The Director may, upon written request, authorize the racetrack permittee to accept wagers despite an ongoing video breakdown.

- f. tor may, upon written request, authorize the racetrack permittee to accept wagers despite an ongoing video breakdown.
 - g. For separate pool simulcast wagering, the racetrack permittee shall ensure that the voice communication line between the Arizona Stewards and their out-of-state counterpart remains intact.
 - h. For common pool simulcast wagering, the racetrack permittee shall ensure that the core-to-core link between the Arizona permittee's tote system and the out-of-state tote system remains intact.
1. A receiving racetrack permittee and each teletrack location shall acquire the simulcast video signal no later than 30 minutes prior to the scheduled post time for the race. If the signal is not acquired by any location, all wagers shall be refunded for that race. Failure to acquire or late acquisition of any simulcast signal shall be reported to the Director or the Director's designee.
 2. In accordance with R19-2-505, the racetrack permittee may request in writing to the Director the authorization to conduct advance performance wagering.
 3. Should a breakdown in the reception of video signals occur at any teletrack wagering location after acquisition for a specific performance, the loss shall be reported immediately to the Director or the Director's designee and R19-2-403(8) shall apply for that signal at that location.
 4. In separate pool wagering, if the breakdown in the reception of video signals occurs at the racetrack permittee location at some point after acquisition of the signal, wagering may continue at the discretion of the Director's designee for 90 minutes providing voice communication remains intact between the stewards and placing judges at the out-of-state location.

Interstate Common Pool Wagering

R19-2-522.

A. General

1. All contracts governing participation by a racetrack permittee in interstate common pools shall be submitted to the Department for approval.
2. Individual wagering transactions are made at the point of sale in the state where placed. Pari-mutuel pools are combined solely for computing odds and calculating payoffs but will be held separate for auditing and all other purposes.
3. Any surcharges or withholdings in addition to the takeout shall only be applied in the jurisdiction otherwise imposing such surcharges or withholdings.
4. The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the similar information permitted or required to be displayed under these rules.
5. A racetrack permittee may only participate in common pool wagering on the same type of racing as authorized by the permit for live racing conducted by the racetrack permittee.

B. Participation in Interstate Common Pools by Receiving Racetrack Permittee

1. With the prior approval of the Department, pari-mutuel wagering pools may be combined with corresponding wagering pools at the sending facility outside of this state.

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2. The Department may permit adjustment of the takeout from the pari-mutuel pool so that the takeout rate in this jurisdiction is identical to that at the sending track (within the limits permitted by state law).
 3. Where takeout rates in the merged pool are not identical, the net price calculation shall be the method by which the differing takeout rates are applied.
 4. Rules of racing as established for the contest in the sending track shall apply to the merged pool.
 5. The Department shall approve agreements made between the racetrack permittee and other participants in interstate common pools governing the distribution of breakage between the jurisdictions.
 6. If, for any reason, it becomes impossible to successfully merge the bets placed into the interstate common pool, the racetrack permittee shall make payoffs in accordance with payoff prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere; except that, with permission of the Department, the racetrack permittee may alternatively determine to either pay winning tickets at the payoff prices at the sending track or declare such accepted bets void and make refunds in accordance with the applicable rules.
 7. ~~Acquisition and Subsequent Loss of Simulcast Video Signal During Common Pool Wagering~~
 - a. ~~A receiving racetrack permittee and each teletrack location shall acquire each individual simulcast video signal prior to the opening of the pari-mutuel windows at that location for each individual simulcast performance. For purposes of this section, a simulcast performance is a race or races imported from a single racetrack. Failure to acquire or late acquisition of any simulcast signal shall be reported to the Director or the Director's designee.~~
 - b. ~~Should a breakdown in the reception of video signals occur at any teletrack wagering facility after acquisition for a specific performance, the loss shall be reported immediately to the Director or the Director's designee and R19-2-403(8) shall apply for that signal at that location.~~
 - c. ~~In common pool wagering, should the breakdown in the reception of video signals occur at the racetrack permittee location at some point after acquisition of the signal, wagering may continue for 90 minutes providing the data line remains intact enabling the transmission of the stop betting lock to the pari-mutuel machines.~~
- C. Participation in Merged Pools by Sending Racetrack Permittee
1. With the prior approval of the Department, a racetrack permittee conducting a live racing meeting and conducting pari-mutuel wagering may determine that all or part of its racing program be utilized for pari-mutuel wagering by sending all or part of its racing program to facilities outside this state and may also determine that pari-mutuel pools at such facilities be combined with corresponding wagering pools established by it as the sending track.
- D. Rules of racing established for races held in this state shall also apply to interstate common pools unless the Department shall have specifically otherwise determined.
3. The Department shall approve agreements made between the racetrack permittee and other participants in interstate common pools governing the distribution of breakage between the jurisdictions.
 4. Any contract for interstate common pools entered into by the racetrack permittee shall contain a provision to the effect that if, for any reason, it becomes impossible to successfully merge the bets placed in another state into the interstate common pool formed by the racetrack permittee, or if, for any reason, the Department's or the racetrack permittee's representative determines that attempting to effect transfer of pool data from the receiving facility may endanger the racetrack permittee's wagering pool, the racetrack permittee shall have no liability for any measures taken which may result in the receiving facility's wagers not being accepted into the pool.
 5. Amounts wagered in an interstate common pool other than amounts wagered within this state shall not be considered part of the racetrack permittee's pari-mutuel wagering pool for purposes of A.R.S. § 5-111. A racetrack permittee may charge a fee to a receiving facility or location outside this state for the privilege of conducting pari-mutuel wagering on the race and participating in the interstate common pool and for payment of costs incurred to transmit the broadcast of the race.
 6. Should a racetrack permittee experience a breakdown in the sending of the video signal while conducting interstate common pool wagering, the racetrack permittee:
 - a. Shall notify all receiving locations of the technical difficulties being experienced;
 - b. May continue to accept wagers from the receiving out-of-state locations provided there is compliance with the guest site's governing agency on that performance;
 - c. ~~May not accept wagers from the receiving locations for any subsequent performance until the technical difficulties are corrected.~~
- D. Takeout Rates in Interstate Common Pools. With prior approval of the Department, a racetrack permittee wishing to participate in an interstate common pool may change its takeout rate (within the limits permitted by state law) so as to achieve a common pool takeout rate with all other participants in the interstate common pool.